



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS

Appellant: David R. MacLean  
Serial No: 09/550,049  
Filed: April 14, 2000  
For: SAFETY DEVICE FOR USE  
WITH A VIAL

Appeal No.

**SECOND SUPPLEMENTAL APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a brief for appealing the final rejecting of pending claims 22-27 of the above-identified application.

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## **PREFACE**

This Second Supplemental Appeal Brief is filed to support the Second Request for Reinstatement of the Appeal in light of the latest Office Action of March 7, 2005 once again reopening prosecution of the application. Aside from withdrawing the final rejection as stated on page 2, the March 7 Office Action is a duplicate of the Office Action of December 13, 2004.

Accordingly, except as to be stated in particular hereinbelow, all sections of the Appeal Brief filed on April 15, 2004 (Appeal Brief) and the Supplemental Appeal Brief filed on February 11, 2005 (Supplemental Appeal Brief) are incorporated by reference herein.

## **REAL PARTY IN INTEREST**

The statement of the Real Party in Interest section of the Appeal Brief is incorporated by reference herein.

## **RELATED APPEALS AND INTERFERENCES**

The statement in the Related Appeals and Interferences section of the Appeal Brief is incorporated by reference herein.

## **STATUS OF CLAIMS**

The status of claims set forth in the Status of Claims section of the Appeal Brief is incorporated by reference herein. The additional status of claims as set forth in the Status of Claims section of the Supplemental Appeal Brief is also incorporated by reference herein.

As was noted above, the Office Action that was mailed out on March 7, 2005 is a repeat of the Office Action dated December 13, 2004, aside from the withdrawing of the final rejection.

There is no amendment to the claims. Accordingly, the claims being on appeal remain claims 22-27 as reproduced in Appendix A of the Appeal Brief.

## **STATUS OF AMENDMENTS**

The statement in the Status of Amendments section of the Appeal Brief is incorporated by reference herein.

### **SUMMARY OF THE INVENTION**

The Summary of the Invention section of the Appeal Brief is incorporated by reference herein.

### **ISSUES**

The respective issues presented in the Appeal Brief and the Supplemental Appeal Brief are incorporated by reference herein.

### **GROUPING OF CLAIMS**

The Grouping of Claims section of the Appeal Brief is incorporated by reference herein.

### **ARGUMENT**

The respective arguments set forth in the Appeal Brief and the Supplemental Appeal Brief are incorporated by reference herein.

Respectfully submitted,



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Date: March 22, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS

Appellant:	David R. MacLean	)	
Serial No:	09/550,049	)	
Filed:	April 14, 2000	)	
For:	SAFETY DEVICE FOR USE WITH A VIAL	)	Appeal No.

SECOND REQUEST FOR REINSTATEMENT OF THE APPEAL

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Appellant hereby requests the reinstatement of the appeal for the instant application in response to the Office Action dated March 7, 2005. This Request is accompanied by the attached Second Supplemental Appeal Brief that incorporates by reference the Supplemental Appeal Brief filed on February 11, 2005 and the Appeal Brief filed on April 15, 2004.

The appeal of this application is respectfully requested to be reinstated insofar as the latest Office Action dated March 7, 2005, aside from the withdrawing of the final rejection, is the same as the Office Action dated December 13, 2005 for which the aforementioned Supplemental Appeal Brief was filed in response.

Since there is no new issue raised by the latest Office Action, it is respectfully requested that the Appeal of this application be reinstated.

Respectfully submitted,

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Date: March 22, 2005